IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
LETTERS PATENT APPEAL NO.46 OF 2006
IN
WRIT PETITION NO.931 OF 2005

Jayeshree P. Mansharamani .... Appellant
Vs.
The Secrectray Seva Sadan Trust
& Ors. .... Respondents

Shri Neel Helekar i/b M/s. Haresh Mehta & Co. for the Appellant.

Shri A.G. Kothari for the Respondent Nos.1 to 3.

CORAM: R.M.S. KHANDEPARKAR &
Mrs. ROSHAN DALVI, JJ.

DATED: MARCH 20, 2006

P.C:

Heard. The appellant challenges the order passed by the learned single Judge on 31-8-2005 in Writ Petition No.931 of 2005. By the impugned order, the learned single Judge has set aside the order passed by the School Tribunal on 23-12-2004 in Appeal No.10 of 2004. The grievance of the appellant is that, the learned single Judge erred in interfering with the order passed by the Tribunal in as much as that the person who was appointed as the Headmistress was not qualified to be appointed as such, was totally ignored. Undisputedly, consequent to the superannuation of the incumbent of the post of the Headmaster on 31-8-2004,

purely as a stop-gap arrangement her services came to be extended till November, 2004 and again till 30-4-2005. The same was challenged before the Tribunal and the Tribunal holding the same to be contrary to law directed appointment of the appellant as the in-charge Headmistress. After the said order, the management appointed one Mrs. Manmohan Sidhwas as Headmistress from 1-1-2005. Undisputedly, the institution is a minority institution and therefore the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, do not apply to the recruitment of head of a minority institution. Undisputedly, the respondent-Trust is a minority institution. The contention, however, is that, even for the purpose of stop-gap arrangement, till and until regularly selected candidate is appointed, the minority institution could not have ignored the seniority of the appellant while appointing the incumbent as a stop-gap arrangement. The contention is devoid of substance. There is no right in the appellant to be appointed as a stop-gap arrangement. Besides, already a regular incumbent has been appointed by the respondents. Considering the same, the learned single Judge has set aside the order of the School Tribunal which directed the respondents to appoint the appellant as the in-charge Headmistress. We do not find any illegality committed by the learned single Judge in setting aside

the order passed by the Tribunal. The Tribunal could not have passed the order of the nature which was passed on 23-12-2004. Being so, the appeal is rejected in limine, with costs.

(Mrs. Roshan Dalvi, J.) (R.M.S.Khandeparkar, J.)

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